

PART 709—FOREIGN CORRUPT PRACTICES ACT OF 1977

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AUTHORITY: Sec. 237(1), Foreign Assistance Act of 1961, added by Pub. L. 95-268.

SOURCE: 43 FR 36064, Aug. 15, 1978, unless otherwise noted.

§ 709.1 Authority and purpose.

(a) These regulations are issued under the general powers of the Overseas Private Investment Corporation ("OPIC") and pursuant to section 237(1) of the Foreign Assistance Act of 1961, added by Pub. L. 95-268.¹ The Board of Directors of OPIC has authorized the President of OPIC to issue these regulations and to amend them as the President shall deem appropriate.

(b) These regulations prescribe the procedure under which individuals and companies may be suspended, as mandated by section 237(1) of the Foreign Assistance Act of 1961, as amended,

¹Section 237(1) of that Act states:

(1) No payment may be made under any insurance or reinsurance which is issued under this title on or after the date of enactment of this subsection for any loss occurring with respect to a project, if the preponderant cause of such loss was an act by the investor seeking payment under this title, by a person possessing majority ownership and control of the investor at the time of the act, or by any agent of such investor or controlling person, and a court of the United States has entered a final judgment that such act constituted a violation under the Foreign Corrupt Practices Act of 1977.

(2) Not later than 120 days after the date of enactment of this subsection, the Corporation shall adopt regulations setting forth appropriate conditions under which any person convicted under the Foreign Corrupt Practices Act of 1977 for an offense related to a project insured or otherwise supported by the Corporation shall be suspended, for a period of not more than 5 years, from eligibility to receive any insurance, reinsurance, guaranty, loan or other financial support authorized by this title.

from eligibility for OPIC services because of conviction under the Foreign Corrupt Practices Act of 1977 (Pub. L. 95-213) of an offense related to an OPIC-supported project.

(c) The purposes of the suspensions provided herein are to carry out the statutory requirements of Section 237(1) of the Foreign Assistance Act of 1961, as amended, to protect the interest of the United States and to foster full and free competition in international commerce.

(d) The specific provisions of law under which OPIC operates and the general powers conferred on OPIC give OPIC broad discretion in the conduct of its programs. The issuance of these regulations is not to be construed as in any way limiting or derogating from the discretion of OPIC to determine whether or not to support the investment of a particular entity in a particular case.

§ 709.2 Applicability.

These regulations take effect on the date of publication in the FEDERAL REGISTER and govern eligibility for OPIC services for which OPIC has not previously obligated itself.

§ 709.3 Definitions

(a) The *Act* means the Foreign Corrupt Practices Act of 1977.

(b) *Entity* means any individual, association, company, corporation, concern, partnership, or person.

(c) *Offense* means any act or omission to act which has been found by a United States court of competent jurisdiction to constitute, with respect to a particular entity, a violation of the Act, of section 13(b)(2), 13(b)(3) or 30A of the Securities Exchange Act of 1934 (which were added in 1977 by the Act), or of any other provision of law derived from the Act.

(d) *Suspension* means the designation of an entity as ineligible to receive OPIC services through a suspension determination.

(e) *Suspension determination* means a determination by the President of OPIC pursuant to these regulations that an entity is ineligible to receive OPIC services.